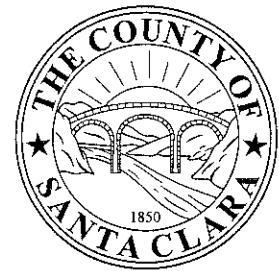


# County of Santa Clara

## Department of Planning and Development

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Date: November 20, 2014

To: Governor's Office of Planning and Research  
Sacramento, CA

From: Nash Gonzalez, Director   
Department of Planning and Development

Office of Planning and Research staff:

Regarding the elimination of Level of Service (LOS) as a measure of impact significance, the Santa Clara County Planning and Development Department is in general agreement that traffic congestion is more of a social issue than an environmental impact. However, we have serious concerns with replacing LOS with Vehicle Miles Traveled (VMT) for the types of projects the County sees in the largely rural unincorporated areas where it has land use jurisdiction.

To preserve the qualities of these rural areas and to encourage urban development to occur in the incorporated cities as infill, the County strictly limits new development through its General Plan policies and Zoning ordinance. For example, land divisions require a minimum of 20 acres in most rural zoning districts. In addition, allowable land uses are limited in scope and intensity to ensure compatibility with the rural environment.

Although County policies are designed to limit development, on legal lots of record the County is legally obligated to accept applications for the allowed land uses, such as rural residential, community care facilities, roadside services, and local-serving religious institutions. In addition, the County also regulates projects, such as quarries and agricultural processing, that are dependent upon local resources and that cannot be directed toward urban environments as a way to reduce VMT.

For the rural residential use, it is true that a categorical exemption is available for single family residences. However, some residences do not qualify for this exemption due to potential

impacts, such as tree removal or the proximity of an undeveloped lot to a creek. These and other minor but non-exempt projects require CEQA review at the level of an Initial Study with a Negative Declaration or Mitigated Negative Declaration. Because these projects tend to be located miles away from job centers, shopping opportunities, or public transportation, these developments would typically exceed a regional or per capita measure of VMT by a substantial amount. In addition, it is unlikely that any feasible mitigation measures are available that would significantly reduce VMT for these types of projects. The suggested mitigation measures proposed for Appendix F may be workable in an urban environment, but they are likely not feasible in a low-density rural setting with limited transportation infrastructure.

Our primary concern is that if the County is put in the position through these guidelines of not having the discretion to determine that VMT is not a relevant significance criteria for traffic in this type of environmental setting and for the types of projects we handle, then minor projects that would normally require only an IS/MND might require EIRs because this particular impact cannot be mitigated to less than significant. Approval of these projects would require a Statement of Overriding Considerations. This would not be a good outcome for our rural communities, and it would do nothing to promote infill or limit suburban sprawl development. As noted above, the County has already enacted substantial land use policies to meet this statewide goal.

SB 743 emphasizes development of "criteria for determining the significance of transportation impacts of projects within transit priority areas." We do not believe that it was the intention of the legislature to discourage appropriate and compatible development in rural areas by requiring use of significance criteria, such as VMT, in a context where it is clearly not relevant or appropriate. OPR has the discretion to avoid this outcome, and we urge it to broaden its perspective with regard to the diverse geography of the state. OPR has stated that the extension of VMT as the traffic impact measure for the entire state will not happen immediately. However, a grace period will not change the fact that 90% of the land in the State does not and never will resemble the urbanized areas where high-density, transit-oriented infill is possible and desirable as a way to limit further sprawl.

With SB 743, the State legislature clearly intended to address the problem of sprawl development by reducing impediments to infill projects. However, like Santa Clara County, many local governments in the state have already taken significant steps to further this policy goal. Going back some 30 years, Santa Clara County has been a leader in formulating and implementing policies that reduce environmental impacts by channeling intensive development away from the rural areas and into San Jose and other cities where it is more appropriate. However, some types of low-intensity rural development does and must continue to occur for the health and social and economic viability of these communities. It would be unfortunate if the laudable efforts to discourage sprawl development unnecessarily damaged these communities through the misapplication of CEQA.

In recognition of the inappropriateness of using VMT in rural unincorporated areas, we suggest that OPR consider the following options:

- For the Appendix G checklist question, make clear that VMT applies only to transit priority areas by modifying the language to include the following underlined phrase: "In a transit priority area, cause vehicle miles traveled (per capita, per service population, or other appropriate measure) that exceeds the regional average for that land use?" Consistent with the intentions of SB 743, maintain this limitation to transit priority areas indefinitely.
- Qualify the checklist language to exclude projects that are of small size or of low intensity or that are and must be located in areas where VMT cannot be feasibly reduced. This would be a more challenging approach at the general level of significance criteria, and the County does not yet have specific suggestions for how to accomplish this. However, as an example we would note that the Bay Area Air Quality Management District has established VMT-modeled CEQA screening thresholds (e.g., square footage) for a wide variety of land uses covering both greenhouse gas emissions and criteria pollutants. These screening thresholds are above the types of minor projects we described above.
- Eliminate VMT from the traffic section of the checklist altogether. VMT, in of itself, is not a measure of a traffic impact—at least LOS clearly addresses traffic—it is an indicator of other potential impacts, such as excessive greenhouse gas emissions. However, these impacts, as has been noted, are already addressed in other sections. We understand the desire to promote infill. However, it's one thing to remove CEQA's impediments to this type of development. It's quite a different thing to use CEQA significance criteria to promote land use policies that are already addressed by General Plans and other sprawl-limiting regulations, such as the Cortese Knox Hertzberg Act while while at the same time adversely affecting rural communities. We understand that SB 743 calls out VMT as a possible traffic impact metric. However, the legislature did not mandate that OPR use this measure, especially outside of transit priority areas. We respectfully ask that OPR seriously consider the question, does VMT really measure traffic impacts? And if so, what traffic impacts would be addressed by it? This is not clearly explained in your guidelines update document, it is merely assumed. If VMT is to be used at all, we think it would be appropriate to provide some justification for why it belongs in the traffic section of Appendix G.

